

**Utah Division of Indian Affairs
Native American Remains Review Committee**

FY 2004 Annual Report

To

Native American Legislative Liaison Committee

October 2004

Introduction

The Utah Division of Indian Affairs (UDIA) has undertaken a major initiative - repatriation of human remains in state repositories. UDIA has worked closely with the Native American Remains Review Committee (NARRC) in carrying forward this objective. Various technicalities have held up the initial efforts. UDIA has thus embarked on the following objective:

To repatriate all human remains currently housed in state repositories to the appropriate tribes within a three-year period.

Accomplishments

UDIA has enjoyed improved attendance of tribal representatives at NARRC meetings. See attached roster of committee membership – Exhibit A.

UDIA, in cooperation with NARRC, has approved an American Indian Burial Repository Access Policy – Exhibit B.

UDIA, working with NARRC, has also approved a memorandum of understanding (MOU) with the Utah Park Service to accommodate maintenance and management regarding the Emigration Canyon Repository located on “This is the Place Monument Park.” See Exhibit C. The drafts were presented to tribal leaders (August 7, 2003) for their review prior to approval.

UDIA prepared a complete listing of all human remains currently housed in state repositories. The list was submitted to the Utah tribes at a meeting February 5, 2003.

UDIA, in cooperation with NARRC, has developed new forms that will serve to 1) notify tribes of remains discoveries (Notice of Discovery), and 2) notice to begin the 60 day claim period (Notice for Claims). See attachments – D & E.

Two meetings were held during the past year. Meeting dates: August 7, 2003 and October 21, 2003.

Recommendations:

1. UDIA recommends that funding be considered to cover costs associated with determining “cultural affiliation” by reputable cultural anthropologists. UDIA in

cooperation with NARRC has learned that some agencies do not have sufficient funds to cover this cost in the repatriation of human remains process. There have been discussions of the need for such funds prior to this time but with no allocations made to cover these costs. We recommend the initial amount of \$10,000.00.

Exhibit A

Native American Remains Review Committee

<p><u>Patti Timbimboo-Madsen,</u> <u>Chairperson</u> Northwestern Band of The Shoshoni Nation 862 South Main St., Suite 6 Brigham City, Utah 84302 (435) 734-2286 FAX: (435) 734-0424 Email: nwbandshoind@favorites.com Term Expires: August 31, 2006</p>	<p><u>Karen Krieger</u> Department of Natural Resources Division of Park and Recreation 1594 West North Temple Salt Lake City, Utah 84114-5610 538-7367 FAX – 538-7378 E m a i l : Nrdomain.nredr.kkrieger@state.ut.us Term Expires: October 12, 2005</p>	<p><u>Betsy Chapoose</u> The Ute Indian Tribe P.O. Box 190 Fort Duchesne, Utah 84026 (435) 722-4992 FAX (435) 722-2083 Email: betsyc@ubtanet.com Term Expires: December 17, 2003</p>
<p><u>Melvin Brewster</u> Skull Valley Band of Goshute Indians 3359 So. Main St., #808 Salt Lake City, Utah 84115 (801) 484-4422 FAX (801) 484-5511 Email: thpo@earthlink.net Term Expires: October 18, 2008</p>	<p><u>Patricia Lambert</u> Utah State University Anthropology Program Old Main 245 E Logan, Utah 84321-0730 (435) 797-2603 FAX – (435) 797-1240 Email: plambert@cc.usu.edu</p>	<p><u>Dorena Martineau</u> The Paiute Indian Tribe of Utah 440 North Paiute Drive Cedar City, Utah 84720 (435) 586-1112 FAX (435) 586-7388 Email: dorena.martineau@na.ihs.gov Term Expires: March 2, 2005</p>

	Term Expires: October 12, 2004	
<u>Duncan Metcalfe</u> Curator of Archeology Utah Museum of Natural History 1390 E. President's Circle, Room 301 Salt Lake City UT 84112-0050 (801) 581-3876 FAX: (801) 585-3684 Email: metcalfe@anthro.utah.edu Term Expires: June 30, 2005	Forrest S. Cuch DCED Director Utah Division Indian Affairs <u>324 S. State Street, Suite 500</u> Salt Lake City, Utah 84114 801-538-8808 FAX (801) 538-8803 Email: fscuch@utah.gov	

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Exhibit B

Access Policy – American Indian Burial Repository Draft 2/3/03

This policy is meant to augment the Burial Repository management MOU

Two areas will exist in the repository, one for the permanent reinterment of American Indian remains and one for the temporary reinterment of American Indian remains.

Permanent Reinterment

This area will be in the western most section of the vault, with substantial separation from the rest of the repository. Human remains will be reinterred there with the intent of permanent disposition. Access is limited to representatives of tribes affiliated with the remains and those who have obtained a court order/search warrant. Tribes affiliated with the remains reinterred in this section of the vault will have full authority to guide and direct access. Only official representatives of the Tribe affiliated with remains interred in the permanent area of the repository, the Medical Examiner or Peace Officers may remove remains. Any entrance to this area for any reason must be accompanied by the appropriate ceremony as coordinated by the Utah Division of Indian Affairs and be documented by the Division of State History.

Procedure:

2. Notification of the desire to enter the repository will be given to the Director of the Utah Division of Indian Affairs (UDIA) by official representatives of the affiliated Tribe, Medical Examiner or Peace Officer. The Director will then notify the State Archaeologist and members of the Native American Remains Review Committee (NARRC) and other Utah Tribal Leaders. Initial notice may be made by phone or email with a written notification to follow.
3. The UDIA Director will insure that appropriate ceremonial services are conducted by the

appropriate Tribal authorities and that all logistics of the opening of the vault and ceremonies are coordinated with the staff of This Is the Place Heritage Park.

4. The State Archaeologist will prepare all disposition, removal or access documents.
5. The UDIA Director or his/her designee at State History or on the NARRC will provide access to the repository once all the above steps have been taken.

Temporary Reinterment

The eastern most section of the burial repository will be reserved for the transitory storage of remains; those that are unclaimed and those with respect to which claims of ownership are pending. The NARRC will determine who gains access by discussion at a regularly scheduled meeting or through electronic or phone discussions coordinated by UDIA. Access may be given to any official members of Utah Tribes wishing to inter remains or conduct ceremonies, qualified researchers

acting under the direction of the NARRC, UDIA and State History staff conducting annual inspections or acting under the direction of NARRC, and those who have obtained a court order/search warrant accompanied by the UDIA Director or his/her designee from State History or the NARRC when they have followed the procedures outlined below. Any entrance to this area

for any reason must be accompanied by the appropriate ceremony as coordinated by the Utah Division of Indian Affairs and be documented by the Division of State History. Remains may be reinterred or removed at any time, or at the annual inspection date by official representatives of the Utah Tribes, the UDIA or State History after following the procedures outlines below.

Procedures:

1. Notification of the desire to enter the repository will be given to the Director of the Utah Division of Indian Affairs (UDIA) by official representatives of a Utah Tribe, State Archaeologist, member of the NARRC, Medical Examiner or Peace Officer. The Director will then notify the State Archaeologist and members of the Native American Remains Review Committee (NARRC) who will then consider the request. Once it has been decided to allow access to the repository all Utah Tribal Leaders will be notified. All initial notices may be made by phone or email with a written notification to follow.
2. The UDIA Director will insure that appropriate ceremonial services are conducted by the appropriate Tribal authorities, that any requests by Tribal leaders are considered and that all logistics of the opening of the vault and ceremonies are coordinated with the staff of This Is the Place Heritage Park.
3. The State Archaeologist will prepare all disposition, removal or access documents.
4. The UDIA Director or his/her designee at State History or on the NARRC will provide access to the repository once all the above steps have been taken.

Contact List

Forrest Cuch, Director, Utah Division of Indian Affairs (801) 538-8808

Kevin Jones, Utah State Archaeologist (801) 533-3524

Cliff Harris, Assistant Director, This Is The Place Heritage Foundation (801) 582-1847 Ext. 413

EXHIBIT C

DRAFT 2/3/03

MEMORANDUM OF UNDERSTANDING

Between The

UTAH DIVISION OF INDIAN AFFAIRS,

UTAH DIVISION OF STATE HISTORY,

UTAH DIVISION OF PARKS AND RECREATION, AND

THIS IS THE PLACE HERITAGE PARK

THIS MEMORANDUM OF UNDERSTANDING (MOU), made this

_____ day of _____, 2003, is by and between the Utah Division of Indian Affairs, hereinafter referred to as INDIAN AFFAIRS, the Utah Division of State History, hereinafter referred to as STATE HISTORY, the Utah Division of Parks and Recreation, hereinafter referred to as PARKS, and This Is the Place Heritage Park, hereinafter referred to as TITP.

WHEREAS, 75 ancestral remains of American Indians have been recovered from the shore of the Great Salt Lake, and are now interred in the Indian Burial Repository located at TITP Heritage Park; and

WHEREAS, additional ancestral remains of American Indian peoples, have been recovered from various sites within the State, and are now housed temporarily in facilities at several sites; and

WHEREAS, the Legislature of the State of Utah expressed a desire to provide a permanent and secure repository for the reinterment of such ancestors of the Northwestern Band of the Shoshone Nation, as well as ancestors of other federally recognized American Indian tribes as may be determined to be appropriate for reinterment in the future; and

WHEREAS, The Legislature of the State of Utah provided funding for construction of the Indian Burial Repository to PARKS and funding for the construction of caskets to the Northwest Band of the Shoshone Nation; and

WHEREAS, TITP Heritage Park is dedicated to the interpretation of Utah's heritage and history including representation of American Indian culture and life; and

WHEREAS, all of the Parties to the MOU desire to work together toward the successful operation of the Indian Burial Repository.

NOW THEREFORE, all of the Parties, hereto agree as follows concerning coordination of the reinterment of American Indian human remains recovered in the State of Utah:

- I. All of the Parties hereto agree that STATE HISTORY and INDIAN AFFAIRS will

have stewardship over the remains once they have been placed in the Indian Burial Repository. This stewardship includes the authority to make management decisions as to curatorial needs of the remains made in consultation with the remains' affiliated tribe(s). Curation will include identification, documentation (discovery, etc), numbering and records that link the remains to their identification and associated documentation. An archival set of curation records will be housed at the Division of Indian Affairs, a set will be housed at the Division of State History, one set will reside with the affiliated tribe(s) and a reference set will reside in the Repository. In addition, a register will be located inside the Repository serving as a reference guide to the remains reinterred there.

- II. INDIAN AFFAIRS agrees to represent all federally recognized American Indian tribes whose ancestral remains are reinterred in the Repository and act as the contact agency between federally recognized American Indian tribes and the remaining Parties to the MOU for reinterment of remains in the Repository.
- III. STATE HISTORY agrees to:
 - A. Accept American Indian remains that have been recovered from various sites within the State and that have been properly identified, analyzed, and categorized as American Indian. Corresponding reports and analysis must accompany the remains and will be deposited at State History.
 - B. Arrange for the proper curation and preparation of the remains prior to placement in the Repository. Identification tags, reports and other documents will be provided with each remain.
 - C. Be responsible for all curation of the remains once they have been placed in the Repository and for associated documentation and dissemination of the documentation to the other appropriate parties.

- IV. PARKS and INDIAN AFFAIRS agrees to be responsible for funding major repairs and soliciting funds for upgraded landscaping and improvements to the Repository.
- V. TITP Heritage Park agrees:
 - A. To be responsible for all upkeep, maintenance and security of the Repository and the surrounding grounds.
 - B. To conduct monthly external inspections of the facility and report any problems by phone to the Director of Indian Affairs and/or the State Archaeologist, followed by a report in writing to both entities.
- VI. FURTHER, ALL PARTIES HERETO AGREE AS FOLLOWS:
 - A. The temporary interment portion of the Repository shall be opened once a year for inspection of the facility and on other occasions as necessary. The permanent interment portion of the Repository shall only be opened at the request of the tribes affiliated with the interred remains and by court order/search warrant. STATE HISTORY shall retain one key and INDIAN AFFAIRS shall retain one key. The annual inspection will take place during the month of May and may include a ceremony and the reinterment of remains. A log will be located inside the first door where all access will be recorded (date, time, who reason). All Repository access will be guided by the access policy created by the State Native American Remains Review Committee which is attached to this MOU.
 - B. The vault may be used for temporary retainerment of unclaimed remains and those with respect to which claims of ownership are pending.
 - C. All Parties hereto shall, in performing under the terms of this MOU, comply with the provision of all valid state and federal laws, rules, and regulations

governing the reinterment of American Indian Remains.

- D. All Parties hereto agree to coordinate ceremonial rites at the site.
- E. This MOU shall be governed by and interpreted the under laws of the State of Utah.
- F. This MOU shall remain in effect until terminated by any party.

The parties hereto have signed this Memorandum of Understanding to be effective on the day and year first written above.

UTAH DIVISION OF INDIAN AFFAIRS:

DATE _____

UTAH DIVISION OF STATE HISTORY:

DATE _____

UTAH DIVISION OF PARKS AND RECREATION:

DATE _____

THIS IS THE PLACE HERITAGE PARK:

DATE _____

EXHIBIT D

OFFICIAL NOTIFICATION OF THE DISCOVERY OF NATIVE AMERICAN REMAINS

Reply Due on _____

In accordance with the State of Utah “Native American Grave Protection and Repatriation Act” and Administrative rule R230-1-8, “Notification of Possible Owners of the Remains,” we are hereby notifying you of the discovery of Native American remains as detailed in the attached report of discovery.

You have sixty days from the date of this letter of notification (July 29, 2002) to file a claim for the remains and funerary objects associated with this discovery. In accordance with R230-1-8, you are urged to notify tribal members of this discovery by posting this notice in a public place and/or including it in tribal news media.

In accordance with R230-1-8 (4), any interested party may request to be notified of the discovery of Native American remains by sending a letter to the Division of Indian Affairs, specifying a contact person to be notified and

an address where they can be reached.

Any questions regarding this matter can be directed to the Division of Indian Affairs in writing or by calling (801) 538-8808.

Sincerely,

Forrest S. Cuch, Executive Director
Utah Division of Indian Affairs

FSC/amc

Cc: John Harja, David Harmer
Richard Bradford, Phil Pugsley
Kevin Jones, NARRC Committee
File

Enclosures: Discovery Report
Copy of Administrative Rule 230
Suggested Response letter

Suggested request to be notified of discovery